

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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EXECUTIVE BOARD
February 9, 2004
LR 219CA, LR 222CA, LR 227CA

The Executive Board met at 12:00 p.m. on Monday, February 9, 2004, in Room 2102 at the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR 219CA, LR 222CA, and LR 227CA. Senators present: L. Pat Engel, Chairperson; Jim Cudaback, Vice Chairperson; Chris Beutler; Curt Bromm; Ernie Chambers; Ray Janssen; Jim Jones; Nancy Thompson; and Gene Tyson. Absent: Roger Wehrbein.

SENATOR ENGEL: (Recorder malfunction) ...everybody here today to the Legislative Council, Executive Board of the Legislative Council. And I'd like to introduce those that are present today. On my right is Janice Satra, our legal counsel; on her right is Senator Jim Cudaback, Vice Chairman, from Riverdale; Senator Curt Bromm, our Speaker, from Wahoo; Senator Jim Jones from Eddyville. On my left is Beth Otto, the committee clerk; and on her left is Senator Ramie Janssen from Nickerson. And there's three others who are going to be here, three or four others that will be here. Here comes Senator Tyson from Norfolk, and we are missing...Senator Beutler is in front of me so you're here, right?

SENATOR BEUTLER: I'm not missing.

SENATOR JANSSEN: We're missing Senator Wehrbein.

SENATOR ENGEL: No, Wehrbein will not be here.

SENATOR JANSSEN: Oh, he's not going to be here. Senator Chambers isn't here.

SENATOR ENGEL: Senator Thompson and Chambers.

JANICE SATRA: He will be here, Chambers will be here.

SENATOR ENGEL: And Senator Chambers will be here. Did you want to proceed or do you want to wait till they...

SENATOR BEUTLER: Whatever.

SENATOR JANSSEN: I don't think Senator Thompson is here.

SENATOR ENGEL: Senator Thompson isn't here? Okay. Well,

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 2

LR 219

we might want to wait for Senator Chambers if that's okay. These proceedings will be recorded and transcribed so when you come up to testify if you'd please identify yourself and spell your name for the record. And if you have a cell phone, please turn it off. And first we'll hear the testimony from the introducer of the bill, then those proponents of the bill, and then those in opposition to the bill, and those in a neutral capacity. Now the sign-in sheets are available so if you'd please complete those in their entirety and place those in the box. And if you have any printed materials, if you'd please pass those out, we need 15 copies. If you don't have enough copies, our Page will make those for you. So now we have Senator Thompson who has just arrived from Omaha.

SENATOR THOMPSON: Sarpy/Papillion.

SENATOR ENGEL: Papillion, Nebraska. Now we're missing another one, so if you don't mind, Chris...

SENATOR BEUTLER: Don't disclaim those you would have under your wing.

SENATOR THOMPSON: I know. I just...he implied that I flew in.

SENATOR ENGEL: Okay, I think we'll just proceed.

SENATOR BEUTLER: Okay.

SENATOR ENGEL: Senator Beutler, LR 219CA.

LR 219CA

SENATOR BEUTLER: (Exhibit 1) Mr. Chai man, this bill offers an alternative to term limits. Under LR 219 after eight years, and only after eight years, a state senator would be subject to recall instead of being term limited out of office. State senators in Nebraska are not currently subject to recall. The bill in this form reserves and extends the people's right to vote out of office those who do not represent them properly. Some people view both term limits and recall as civic evils. But in my view, term limits are far more destructive than recall. This bill

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 3

LR 219

proposes to substitute the milder constriction for the more radical constriction. The form of recall that's in the bill is a wide open variety of recall. You could attempt to recall a senator for any reason related or unrelated to their legislative work. The recall right is broad because we need to make clear to people, in my opinion, that the recall is a meaningful alternative. Unless we do that, they will not cast aside the notion of term limits. The voters in the legislative district are the only ones empowered to initiate a recall on their senator or to vote in a recall election. To put the matter on the ballot, the signatures of 25 percent of those who voted for the office in the last general election at which the office was filled are required. A few other details of election procedure are included in the bill to assure the public that the Legislature will not emasculate the right by creating onerous procedural details. If a senator is recalled or resigned, there is no immediate vote on his or her successor as in California, for example. The Governor would simply appoint the successor under procedures we currently have in place for vacancies. To my knowledge, no other state has a recall law that kicks in after two terms so it's a first time proposition to my knowledge. I've passed out to you a number of handouts that I thought you might be interested in. The top page of your set of handouts simply indicates that the largest newspaper in the state thinks that this is a better proposal than simply term limiting people out, and I thought important from the perspective that we would have the support of that newspaper and I think of most newspapers for that matter. On the back side of that page is simply an article out of USA Today indicating that most Americans are in favor of recall. And I simply point that out to you to indicate that I think that a recall provision would be an attractive alternative to people. I don't think it makes any sense to go before the people a fourth time after they voted in term limits three times. I don't think it makes sense to go ask them to reject the same proposition that they've voted in favor of. I don't think you can change that many minds without offering them some sort of compromise. And that's what I think this is, is a compromise. I passed out to you term limits in Nebraska, a time line which simply shows you some of the history of the term limit efforts. And you can read through that if you have an interest. And then I passed out to you some National Conference of State Legislatures materials

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 4

LR 219

generally describing the use of recall throughout the United States. And you can take a look at that and see the different ways that people do things. And then finally the last sheet in your handouts simply shows the votes on the last three times, last four times, did I say three before, last four times that term limits was voted upon. And you can see in the year 2000 it was passed with 56 percent of the vote. So if you do not want term limits, we need to figure out a way to get 40,000 people or so to change their mind. And that's really all there is to it, Mr. Chairman. I'd be open to questions.

SENATOR ENGEL: Thank you. The only question I have, do you recall any instance in the last few years since you've been in the Legislature where this process might have been used?

SENATOR BEUTLER: The recall?

SENATOR ENGEL: The recall.

SENATOR BEUTLER: Well, we only have recall for local officials.

SENATOR ENGEL: No, I say if this was in effect, I'm saying.

SENATOR BEUTLER: Pardon me?

SENATOR ENGEL: If this was in effect, I'm saying.

SENATOR BEUTLER: If it were in effect.

SENATOR ENGEL: Yeah.

SENATOR BEUTLER: Any situations where it might have been used?

SENATOR ENGEL: In the Legislature, yeah.

SENATOR BEUTLER: No, I'm not sure I can flash through my mind everything that's happened in the last two years, Mr. Chairman. But there's...

SENATOR ENGEL: No, several...

SENATOR BEUTLER: ...certainly nothing that comes to mind

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 5

LR 219

that in my mind would be justification for initiating a recall. But as with most states, there are no limitations here so if anybody feels like they'd like to try it, they can do it.

SENATOR ENGEL: Any other questions of...Senator Jones.

SENATOR JONES: You spoke about other states. No other states have that authority to do it or no other states have tried it?

SENATOR BEUTLER: When I said no other states, I meant the combination...the structure of the recall that's in this bill where it applies only to senators after eight years. As you can see in the printout materials, there are 18 states or so that have recall; but it applies to state senators in almost all those cases and it applies in the very first year you're in office, not after eight years. So it's not unique in applying recall to state senators. It's unique in applying it after the 8th year as an alternative to term limits.

SENATOR JONES: Okay.

SENATOR ENGEL: Senator Beutler, could I ask one more question. Is there a list of things that they can use for recall or is it just wide open?

SENATOR BEUTLER: It's wide open.

SENATOR ENGEL: Wide open.

SENATOR BEUTLER: Yeah.

SENATOR ENGEL: So if they just didn't like the color of your hair or lack of hair, you could say, well, let's...

SENATOR BEUTLER: No.

SENATOR ENGEL: Okay.

SENATOR BEUTLER: The reading that I've done on it, though, indicates that people are not particularly inclined to recall people for not having enough hair, Senator.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 6

LR 219, 222

SENATOR ENGEL: Thank you. Any other questions for Senator Beutler? If not, thank you. And are there any other proponents here for the bill? Are there any opponents for the bill? Is there anyone testifying in a neutral capacity for the bill? We do have one letter on a neutral capacity that I think you all have and it will be in a file from a lady from Elmwood, Nebraska (Exhibit 2). So that's the only other testimony we have so would you like to close, Senator Beutler?

SENATOR BEUTLER: I don't think so, Mr. Chairman, unless somebody thought of some questions.

SENATOR ENGEL: Thank you very much. That will close the hearing on LR 219CA. Next we have LR 222CA with Senator Quandahl. Will you please sign in, sir, if you haven't and legibly. Identify yourself, please.

LR 222CA

SENATOR QUANDAH: I will sign in. I'll fill that out after I'm done...

SENATOR ENGEL: Okay, thank you.

SENATOR QUANDAH: ...if that...to make it a little more expeditious. Mark Quandahl from District 31, here to introduce LR 222CA. In short, LR 222CA would amend Article III, Section 7 of the Nebraska State Constitution to change the manner in which state senators are elected. This constitutional amendment would allow members of the Legislature to be nominated and elected on the ballot with an indication that he or she is affiliated or endorsed by a political party or organization. And I thought I'd start off by giving you just a little bit of a history of the Nebraska Constitution. Nebraska had its first constitution in 1866 which was one year before we became a state. It was a prerequisite to becoming a state, being a part of the federal government. That constitution was replaced in 1875 by a whole brand new constitution which was again substantially revised by a constitutional convention in 1920. Since 1920, our constitution has been changed in little ways by constitutional amendment, most notably was the change that happened in 1934 which changed our

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 7

LR 222

Legislature from a two-house system to a one-house unicameral system and also set up for the election of state senators on a nonpartisan basis. That was 70 years ago. And in just doing a little bit of research on the reasons behind the change back then was that was at the height of the Populist movement in the earlier part of the twentieth century. It was proposed by George Norris whom we all know was a very popular senator at the time too. But from my standpoint looking at things 70 years later, there are a number of changes that probably wouldn't have been anticipated by the people when they voted on that constitutional change in 1934. Just some of the ones that I can think of is that in 1934 we didn't have any sales tax in the state of Nebraska. We didn't have any income tax in the state of Nebraska. The federal government in 1934 was just getting around to adopting a number of the provisions of the New Deal so there really wasn't any Social Security at that time on a federal level. There were a number of actually federal mandates in 1934 were almost nonexistent so we lived in a different world in 1934 than we live today. It should be obvious or I think we all know that a part of the uniqueness of serving in the Unicameral Legislature is that we're the only state out of all 50 that have a Unicameral Legislature. Now that certainly is unusual. It certainly is unique. And I can say, from being a part of the Unicameral Legislature, that it does work to a certain extent. We do get our work done around here as a Legislature being elected on a nonpartisan basis. But, but I would say that being unique, being a Unicameral did not shield us from probably the most unpleasant budgetary deficits that have been beset upon Nebraska and most of the other states too. So it doesn't necessarily shield us from some of the problems. And so from my standpoint after 70 years, I think it would behoove us to put before the voters at least an option to reexamine the Populist experiment that did start with George Norris in 1934. We elect our Governor, most other elective officials in the state of Nebraska on a partisan basis. From my standpoint, this would also provide kind of a truth in labeling or it would provide the voters with a different or with additional information about who they're voting for as a state senator. Because, you know, although some people may beg to differ, our political parties do stand for certain core beliefs and certain values. And I think that that's important that folks know that a person running for state senator at least

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 8

LR 222

identifies himself with a certain group of core values. And so in closing, I would urge this committee to send this out to the floor so we can try to get 30 votes for this to get it out before the voters because I think it would put Nebraska basically in tune with not only with 49 other states but also with the concepts of how a government should be set up from a legislative standpoint that goes all the way back to our Founding Fathers. So I'd submit myself to any questions.

SENATOR ENGEL: I'd like to start off with just one. Don't you think in the legislative races that in each district that they fairly well know what our core values are in that district right now, I mean whether you run as a Democrat, Independent, or Republican?

SENATOR QUANDAHL: I would say that most voters probably are pretty much aware, not only of where a person stands on the issues, but probably almost their political party too. I'd say most voters know, but not all, but not all. And so I think it's important that when you go into the ballot box that you're provided with as much information as possible. So I've said it before, but we should know what color jersey a person is going to be putting on come game day.

SENATOR ENGEL: Any other questions for Senator Quandahl? Senator Beutler.

SENATOR BEUTLER: Mark, do you believe in everything the Republican Party believes in?

SENATOR QUANDAHL: Probably not, no. But I will say that I'm a member of the Republican Party for a reason, and that's because the Republican Party and its core values most closely reflects what I believe in as a person.

SENATOR BEUTLER: Well, isn't the more honest approach to a voter is to tell them what you believe in and not what the Republican Party believes in?

SENATOR QUANDAHL: That's exactly right, that's exactly right.

SENATOR BEUTLER: So why should we identify you as a Republican?

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 9

LR 222

SENATOR QUANDAHL: Well, because that would provide a voter that wouldn't...say a voter that doesn't know anything about me, that would at least give them a basis to make some kind of a decision as to what this Quandahl guy believes, at least some of his core values. No, they won't know. And as we know in here, you know, there's no telling how votes come down as far as between party lines or anything else. I mean when we get in here we're pretty much our own people and there's 49 different senators in here, 49 different cowboys, and sometimes it's hard to figure out how folks are going to end up voting. But...

SENATOR BEUTLER: Voter information aside, such a change would encompass serious reorganization strategies within the legislative body, right?

SENATOR QUANDAHL: Not necessarily, not necessarily. What the constitutional change that I have merely reflects a change in the way that we elect our state senators. Now I think what you'd be talking about probably would take statutory, take some pretty substantial rule changes here in the body and that's not what this is about. It's merely the election of the legislative body.

SENATOR BEUTLER: Okay, thank you.

SENATOR ENGEL: Any other questions? If not, thank you, Senator Quandahl.

SENATOR QUANDAHL: Thank you.

SENATOR ENGEL: Are there any other proponents? Please sign your name and spell it for the record.

DAVID KRAMER: I'll fill that out if it's okay, Senators, as soon as I'm finished here. Good afternoon. My name is David Kramer. I'm chairman of the Nebraska Republican Party, and I'm sure to most of you it's no surprise that I'm here today to speak in support of this bill. I've been active in party politics since I was 11 years old. That's coming up on 29 years now. And for the record, the first campaign I worked on was John Cavanaugh for Congress as licking stamps and putting yard signs out. And I've always believed very strongly in political party and political

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 10

LR 222

party activism. And some of you may be aware of the fact that I've traveled and worked around the world in other countries around the world, including developing nations in Latin America and in Africa, on democracy development work. And I've been always troubled by the fact that somewhere along the line here in Nebraska in particular, but to a larger...excuse me, here in our country somewhere partisan became a bad word. I don't think partisan is a bad word. Partisan really means, and I looked this up in the dictionary before I came over here, giving strong support to one side. It's not giving 100 percent support to one side, just strong support to one side. And I think that this constitutional amendment will give a lot of folks an opportunity just to have the identification there of what the party affiliation is. And there are two things that I want to emphasize that this does not do. First, Senator Beutler, in response to your last question to Senator Quandahl, this does not require the Legislature to be organized on party lines. It would enable the Legislature to continue to be organized under the rules that it has set. Second, it does not, as I understand it, call for separate primaries, but rather all-comers in a single primary, with party affiliation identified, but two advance, could be two Republicans, could be two Democrats, Republican-Democrat, two Independents, so on, no different than it is today other than the party affiliation being set out on the ballot. Another critical component of this, I think this has the potential to strengthen our political parties. Those of you who have heard me speak publicly have heard me say often, and I was just recently speaking to the realtors, where a person who is an active Democrat, running for office in the state, asked me the question, what could we do to encourage participation. And I took back...took a step back and this is something that I've been saying for a long time, I think, contrary to some folks' opinion, that it is critical in this state that we have a strong Republican and a strong Democratic Party. And I think it is to our benefit to have strong political parties. I equate it to going to the football game where, you know, it's fun to go watch Nebraska beat Troy State 77-12, but it's a lot more fun to watch them win 24-23 over Kansas State or Texas from time to time. And so I think that this has the potential to strengthen our political parties. And the reason for that is that our political parties tend to drive turnout. A lot of folks, with respect to Senator Engel, your comment about people

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 11

LR 222

knowing your core values, the parties already are out communicating on behalf of the various candidates, who is a Republican, who is a Democrat, what their core values are. We are the ones, I believe, as political parties who do put in a great deal of effort to push turnout in all the various races. And being able to already identify you folks, sometimes against your will, with what political party you affiliate with, but this will help strengthen parties, strengthen the tie, I think, between our state legislators and the political parties. And I think that's very important because the Legislature today is the single-most important policymaking body in the state of Nebraska. And I think people feel that they need to maintain an arm's length relationship with the party, not as close a working relationship as a lot of folks would like to see. This constitutional amendment would also afford people the opportunity to know what the basic philosophy is of the person. I don't think that every voter, as much as we would like to have them be informed, is as informed as they ought to be and as informed as we are when we walk into the ballot booth. But having the party affiliation gives them a basic understanding of what the person's general philosophy is. Another strong component of this is I think, for lack of a better word, it allows people to assign responsibility for actions taken by individuals who vote. And when I talk about that, what I've often said, if I want to accept the credit for when things go well, I also have to be willing to accept the blame for when they don't go well. And it was that noted conservative, Dick Shugrue, and I'm being facetious there when I talk about Dick, who in a column just about ten days ago indicated support for this constitutional amendment because, in some respects, it would enable the party that's not the majority party to hold the feet to the fire of the party that is. Twenty years ago the Republicans weren't in charge, and I keep reminding folks for a long time or every time I get an opportunity that in 20 years we may be out where we were 20 years ago. And this is one way for folks on both sides of the aisle to be able to point out how the votes...people voted and how they were cast. The second to the last point I wanted to make is there is de facto partisanship today in the Legislature. A lot of folks may not want to admit it. It's not talked about publicly. But we on the Republican Party are very, very active in legislative races. You know, I said publicly what we intended to do in the last election cycle, we set out to

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 12

LR 222

do it, and we did. And we went out and we targeted folks on a partisan basis. Some folks were unhappy with that, and I understand. But I think that that has a positive as well in that like people get together and work together here in the legislative body. And there's nothing to be ashamed of with respect to people of similar political...of the same political party getting together, meeting, and working together. Senator Quandahl mentioned the truth in...and I called it truth in politicking, if you will. This body has passed legislation about truth in lending, about truth in advertising, and this is simply a way for voters to know what team you play on. Let me close by saying the following: I am very, very proud to be a Republican. I usually wear it on my lapel. I'm not embarrassed to be a part of the party that I've chosen to belong to. I don't agree with my party 100 percent of the time. I don't agree with my President or our President, I should say, 100 percent of the time. But I, as a general rule, my philosophy falls within and closer to that party. And I would like to see the day when our state senators feel the excitement and feel proud to be a member of a political party, which I think, because of our history, a lot of times has been pushed back or people who have "partisan" have been discouraged in these Chambers from being partisan. I don't think that partisan is a bad word. I think it's a good word, and this is something that won't just benefit Republicans. Over time, I think if we look at this with the long view, it will benefit the Democrat Party in this state and it will benefit the citizens of the state of Nebraska. And with that, Mr. Chairman, I'd be happy to answer any questions.

SENATOR ENGEL: Thank you. Any questions for Mr. Kramer? I see none. Oh, I'm sorry, Senator Beutler.

SENATOR BEUTLER: Dave, you realize the federal government hasn't yet passed their budget for the year that began last October...

DAVID KRAMER: I do.

SENATOR BEUTLER: ...because of partisan bickering.

DAVID KRAMER: I don't think it would be as a result of partisan bickering, Senator, as much as...I mean if you look

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 13

LR 222

at the votes on the various bills, there's a lot of people crossing over both sides. It's representing the particular interests of the people who elected them.

SENATOR BEUTLER: But they should get their budget passed on time, don't you think?

DAVID KRAMER: Absolutely..

SENATOR BEUTLER: Do you perceive that the debate at the federal level has been in many ways exaggerated, irrational, and acrimonious compared to the debate that we have in the Nebraska Legislature?

DAVID KRAMER: I think at times it is, and that's driven by people who are on the extremes on either side of particular issues. And I don't think that that's something that's to be...that we want to strive for. But I also think that that's the exception and not the rule. And frankly, it isn't driven because people are Republican or they're Democrat. If you'll look at on this Medicare bill, for example, there was a lot of acrimony, but it was Republicans attacking Republicans. It's the people's individual philosophies that are coming to fore in the...within the scope of particularized debate. And I think that's the exception and not the rule.

SENATOR BEUTLER: If we identified the Republican candidate for Congress in this next election as the candidate who believed in less spending because he's a Republican, would that be a fair statement?

DAVID KRAMER: It depends on that candidate's individual, I mean, proclivities in their voting record if he had the ability...I've...

SENATOR BEUTLER: Now we have identified them as a Republican. Does that mean that they're in favor of less spending?

DAVID KRAMER: As a general rule, hopefully yes.

SENATOR BEUTLER: This year?

DAVID KRAMER: This year, which Congressional district are

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 14

LR 222

you...

SENATOR BEUTLER: I'm speaking of the federal government.

DAVID KRAMER: No. I mean you could make a very strong argument that they're the ones that didn't exercise fiscal restraint, those who voted for some of the significant expenditures.

SENATOR BEUTLER: So it's the Republican controlled Congress that was not in favor of greater fiscal restraint this time around, right?

DAVID KRAMER: Some Republicans and some Democrats. And in fact, I think it's the point that proves the fact. Party...I can look back in the Congress of the United States and say that in general the times that there are true partisan line votes are very, very rare. It comes down to the person's individual philosophy. I, as a Republican, have been very, very troubled by the fact that my party has been spending the way it has been. But I also understand that there are factors that have come into play with respect to that. And I think as a general philosophy this year does not reflect historically what we, as Republicans, have believed.

SENATOR BEUTLER: But the beliefs of parties change and shift and evolve, do they not?

DAVID KRAMER: Yes.

SENATOR BEUTLER: Let me ask you this. How long have you been observing the Nebraska Legislature?

DAVID KRAMER: Since I was old enough to do so, probably 30 years... 30-plus or 29 years, 28, 27 years.

SENATOR BEUTLER: And you've observed all the other legislatures in the United States generally speaking. Has it been your perception that the laws that we make are less accurate, less fair, less comprehensive, less thoughtful than those produced by the legislatures elsewhere in the country?

DAVID KRAMER: No, Senator. It's been my perception that

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 15

LR 222

folks are not always what they present themselves to be. And I guess I'll speak very candidly here. It's my perception because of some of the developments over the last ten years that there are people who call themselves Republicans across the state who are not Republicans. And I think that's a product in some respects of the fact that there is not a viable strong Democratic Party in the state. And when a person says, I'm a Republican, I want people to look at them and say, that stands for something. And if you say you're a Republican but you don't vote like what on balance the general core values are of Republicans, then I want Republicans and Democrats to know that so they can either vote against you or validate what it is...the way you're voting. And so to me it doesn't change...

SENATOR BEUTLER: Well, if we're going to...yeah...if we're going to get at what true Republicanism is, shouldn't we go back to the primaries and figure out what different kinds of Republicans are and put labels on them?

DAVID KRAMER: This isn't I think really about putting labels on people. It would be one thing if...

SENATOR BEUTLER: If you don't believe in everything your party does, it is putting a label on you. It's putting a label, I want myself identified with a party.

DAVID KRAMER: Well, and you already...you know, in fact, here's an interesting thing, folks. You already do that. You self-identify. You did when you went to register to vote, Senator. You chose a party that you knew or know, you know, as you consider a run for a different office that you will have to run in a partisan office potentially. I didn't do that for you. You got to choose that. And all I'm saying is let the people know what you chose to identify yourself as. And that's what this is about. It's not me labeling you. It's you telling us, here's who I identify most with. And the last thing I'd say with respect to that, there are very few people I think who would look and expect that you have to vote 100 percent of the time with your party or with my party.

SENATOR BEUTLER: Did you ask Senator Quandahl to introduce this bill?

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 16

LR 222

DAVID KRAMER: I did not.

SENATOR ENGEL: Senator Cudaback.

SENATOR CUDABACK: Did you do it, not that it matters, but is this more or less your opinion or did you canvass or talk to...

DAVID KRAMER: We had a central committee meeting two weeks ago and a resolution was adopted unanimously to support this constitutional amendment.

SENATOR CUDABACK: Thank you.

SENATOR ENGEL: Senator Chambers.

SENATOR CHAMBERS: What becomes of somebody who is an Independent?

DAVID KRAMER: They would still be able to run in the open...in the same way as it currently is, all Republicans, Democrats, and Independents would be in the same primary and you would simply be listed as an Independent in the primary. You'd have some folks listed R, some D, and some I.

SENATOR CHAMBERS: Each member shall be nominated and elected with an indication on the ballot that he or she is affiliated with or endorsed by a political party or organization. Independent is not a political party or organization. So if this specifies that there has to be a designation of a party, how does one get on the ballot without a designation of a party?

DAVID KRAMER: Well, I won't pretend to speak for Senator Quandahl; and to the extent that there is a technical issue with respect to the language, I'm sure that he'll be happy to address it. My understanding of the intent would be that a person who is an Independent would be able to list that they are an Independent on the ballot, will have no affiliation next to their name.

SENATOR CHAMBERS: Well, a lot of people think things are a certain way, for example, they think that under term limits I could win the most votes by write-in and serve, but that's not so. The thing is written so that you cannot serve no

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 17

LR 222

matter how you get the votes. So when we come to something like this and I hear you talking about Republicans, what difference does it make to me whether there are people who call themselves Republicans and you don't think they are and you're a Republican because they don't see Republicanism in the same way you do?

DAVID KRAMER: Well, it doesn't...it doesn't make a difference to you and, frankly, most folks and a lot of people in this building don't give a darn what I think. Ultimately it's what each individual voter has the opportunity to think. And what we're simply saying is, a voter goes into the voting booth. Many of them have already been touched by the parties. They know who their party candidate is, despite the fact that this is nonpartisan...

SENATOR CHAMBERS: Okay, I heard that and that's why I'll ask you individual questions...

DAVID KRAMER: ...and so it's the voter.

SENATOR CHAMBERS: ...so I won't make you repeat everything you have said. When a person comes to this Legislature, is he or she here to represent a political party?

DAVID KRAMER: No, they're to represent the district that they represent, that they were elected to represent.

SENATOR CHAMBERS: Am I to represent my district?

DAVID KRAMER: Yes.

SENATOR CHAMBERS: Why do they call me a state senator rather than a district senator?

DAVID KRAMER: Well, Senator, that's a great question. I mean I think you represent in, at least historically, in the deliberative body, people are elected from a particular constituency to represent them. But they also are called upon to do what is in the best interest of the state. Sometimes we put our best interest of our individual district behind the best interest of the state. And it's a balancing call that you and every other elected official has to make from time to time as they face those issues.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 18

LR 222

SENATOR CHAMBERS: If I were to run on their party label, my first obligation then is to the party, isn't it?

DAVID KRAMER: No, it's not, Senator.

SENATOR CHAMBERS: Then why are you offended when people say that they're Republicans but they don't vote the way you want to. They're doing what their main responsibility is.

DAVID KRAMER: I'm not offended at all. I just want the average voter to be able to know that a person who says they're a Republican but who in their voting doesn't represent the basic tenets of the party is either someone who isn't really a Republican or is someone who the citizens may decide they want to vote them in, that's fine. All I'm...

SENATOR CHAMBERS: I don't want to offend you, but what do you do? What is your role?

DAVID KRAMER: Today I'm here as chairman of the Nebraska Republican Party.

SENATOR CHAMBERS: Okay.

DAVID KRAMER: No offense taken, Senator.

SENATOR CHAMBERS: Okay. How do you know what the average voter thinks about what you're talking about? Have you ever polled them?

DAVID KRAMER: Well, Senator, yes.

SENATOR CHAMBERS: How did you poll them? What was the methodology that you used? You got the voting list and found out all the people who register Republican and sent them a polling sheet to see what they feel about what you're talking about?

DAVID KRAMER: Well, in light of the fact that we live in a system of representative government, we as a party are organized representatively. And we elect people who I will grant you are generally probably more conservative than the people they represent. But we elect people and so we have average people from all walks of life who participate in

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 19

LR 222

party politics. In addition to that, we poll registered voters. In addition to that, we do research with nonregistered voters.

SENATOR CHAMBERS: I want to know what was your polling methodology that made you feel the average voter feels like what you're telling us here today that there should be partisan election for the Legislature.

DAVID KRAMER: Well, let me take a step back.

SENATOR CHAMBERS: You didn't conduct such a poll, did you?

DAVID KRAMER: I'm not here to say today that this is going to pass.

SENATOR CHAMBERS: I'm not talking about that. You purported to speak for the average voter about the average voter's attitude so let's get away from the average voter and go back to you. Your party is in a position to notify other "Repelicans" as to whether this person is stamped with approval by the party or not. You can do that and you do it anyway, don't you?

DAVID KRAMER: Yes, we do.

SENATOR CHAMBERS: Haven't you sat up in the balcony near the beginning of session to look at how people voted to see if they follow the party line?

DAVID KRAMER: Well, Senator, that's a great question because I can tell you, first of all, I don't know of any senator, frankly, who I've ever been able to convince to vote one way or another.

SENATOR CHAMBERS: That's not what I asked you.

DAVID KRAMER: But I sat in the balcony, but you voted, Senator, and everyone voted in secret ballot. I have no way of knowing who voted what way, no way, Senator.

SENATOR CHAMBERS: But you were there to try to enforce some kind of party discipline or be a presence. Isn't that true?

DAVID KRAMER: That is absolutely categorically not true,

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 20

LR 222

Senator.

SENATOR CHAMBERS: How many times have you sat up in that balcony?

DAVID KRAMER: In the last year?

SENATOR CHAMBERS: Yes.

DAVID KRAMER: Probably eight or ten times.

SENATOR CHAMBERS: And the issues didn't relate to party affairs or business at all.

DAVID KRAMER: No, Senator. I come here regularly to meet with folks. In fact, I'll tell you an interesting thing.

SENATOR CHAMBERS: You don't have to tell me that because I'll be through in just a second because I don't want to keep people too long. That day that you were here when we were organizing, were you here as an interested citizen or as the head of the "Repelican" Party and you sat where everybody could see you?

DAVID KRAMER: I sat where the usher pointed me to sit, Senator. I was here as an interested citizen and as chairman of the Republican Party. I don't think I ever wear separate hats with those two roles.

SENATOR CHAMBERS: Final question--do you think the "Repelican" senators understood your presence to have something to do with the party? Because the media mentioned you as the head of the party because I wouldn't know you from Adam. And when I came in today I didn't know for sure just what you were talking about. I thought you might have been from that Washington, D.C., team limits group who was mad at Senator Beutler because you two were kind of going at it when I came in. But my question, and I'm not going to argue with you, do you think your presence was perceived as that of the head of the Republican Party and you were watching to see how people voted on the various issues that might affect what the party wanted?

DAVID KRAMER: Well, Senator, I can't speak for your colleagues. They can better answer what their perception

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 21

LR 222

was of my presence there.

SENATOR CHAMBERS: Okay.

DAVID KRAMER: My presence was not there to influence in one way or another. In particular, it's very, very difficult to influence votes, I've learned a long time ago, when they have a secret ballot.

SENATOR CHAMBERS: Okay, then in the same way that you couldn't speak for what my colleagues thought, I don't think you can speak of what the average voter thinks on this issue.

DAVID KRAMER: And I'm not here to speak for what the average voter. I'm asking that you give the average voter the opportunity to vote and say how they speak on this issue by putting it on the ballot this fall.

SENATOR CHAMBERS: This is really my final--what is an average voter?

DAVID KRAMER: The average voter is...

SENATOR CHAMBERS: Probably somebody who doesn't vote, right?

DAVID KRAMER: No. That would be contradictory to the very term that defines it.

SENATOR CHAMBERS: Okay. So we're not talking about those eligible to vote.

DAVID KRAMER: Actually, we will do everything we can, Senator, always to push people to come out and vote.

SENATOR CHAMBERS: Okay. So you just mean folks who actually vote.

DAVID KRAMER: Yes, sir.

SENATOR CHAMBERS: Okay.

DAVID KRAMER: And that's the only way under our system that is the right that each and every one of us has. Some people

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 22

LR 222

choose not to exercise it. Those of us who choose to participate in the system, that is our right and we encourage that.

SENATOR CHAMBERS: So if you were going to poll to find out what the average voter thought, you would poll less than 50 percent of the eligible voters and far less than 50 percent of the population. You would poll only those who voted if you want to find out what the average voter thinks, right?

DAVID KRAMER: Not necessarily.

SENATOR CHAMBERS: Okay, that's all I have, thank you.

DAVID KRAMER: Thank you, Senator.

SENATOR ENGEL: Are there any other questions of Mr. Kramer? If not, thank you, Mr. Kramer, and be sure and sign in, please.

DAVID KRAMER: Thank you very much, always a pleasure.

SENATOR ENGEL: Yeah, thank you. Are there any other opponents, I mean proponents? I'm sorry, proponents? If not, are there any opponents? Please identify yourself, sir, and be sure and sign in before you leave.

DOUG SAMUELSON: Thank you. My name is Doug Samuelson, last name spelled S-a-m-u-e-l-s-o-n, from Lincoln, Nebraska. I wasn't coming in to the committee hearing expecting to testify, but feel compelled to after hearing the previous speakers. I'm a lifelong Nebraskan, and I come from it from two different perspectives. One, having served in an elected office as a city council member in Grand Island from 1996 to 2000, and have run for public office since moving here to Lincoln several years ago. During the last election cycle, I ran for a seat on the Lower Platte South Natural Resources District, and during the course of that campaign went door to door speaking with many people throughout that district. It's a great way to get to know people having just moved here to Lincoln, who are within the area of the city I live. But it also allows me to get a lot of comments from people who also come and get their ideas. And I had one specific house that I went to, and you never know what

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 23

LR 222

you'll find, usually it's the dog that comes running to the door first. But this particular person and this, just for everyone's information, seats on the Natural Resources District are nonpartisan, and they wanted to know my party affiliation, which I explained to them I was a Democrat. And they said, well, here we only vote Republican. And I said even though you don't know what my stances are on the issues and, you know, what my thoughts are about certain items? He said, no, I'm sorry, we only vote Republican in this house. So I wanted to bring that to you, you know. It's not necessarily your views on the issues that people necessarily are interested in, but what your party label is, which I think is wrong. The other aspect I wanted to bring is in my current position here at the Capitol, I'm sure you've seen my face around the building, and I visit and love the opportunity to visit with people not only from our state but from across the country who come and see our Capitol. And probably the most...the portion of the presentation that I get the most questions about are when I come and visit with them about the Unicameral. And it's primarily when you folks aren't in session so that's when we're able to have a little bit of quiet time and glance into the Chamber and visit with people. And they have questions and they're just amazed at how we're able to make legislation in a nonpartisan manner. When I bring up to them that Senator Norris, as part of his promoting the idea of the Unicameral was that it essentially be nonpartisan, they said, that's a terrific idea. We'd love to take that back to our state and present that to our people because, you know, we think it's an excellent idea. Seating is not arranged by what your philosophy is, by what your party affiliation is. It's done in a totally, you know, independent manner based on your seniority. And so I, you know, feel that what we have, the system that has been working for 70 years, it's, you know, if it's working, why change it is my philosophy. And with that I'm welcome to any questions that any committee members might have.

SENATOR ENGEL: Does anyone have any questions for Mr. Samuelson? I see none. Thank you very much, Mr. Samuelson.

DOUG SAMUELSON: Thank you.

SENATOR ENGEL: Are there any other opponents? Is there

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 24

LR 222, 227

anyone testifying in a neutral capacity? If not, that concludes the...I'm sorry, no, I'm not going to conclude, Senator Quandahl. I want you to close.

SENATOR QUANDAH: The only thing I was going to say is if anybody has any more questions for me, I'd be more than happy to answer them. Otherwise, I was just going to fill out one of these sheets like Mr. Samuelson so that I could be on record on being here.

SENATOR ENGEL: Does anyone have any questions for Senator Quandahl? Senator Tyson.

SENATOR TYSON: Did Ernie Chambers put you up to this?

SENATOR QUANDAH: That, as a matter of fact, no. (Laugh) You notice there aren't any cosponsors on the bill also. And if anyone can take the credit or the blame for this particular idea, it's me. It's me.

SENATOR ENGEL: Are there any other questions? If not, thank you very much, Senator Quandahl. And that concludes the hearing on LR 222CA. And the next LR 227CA, Senator Maxwell. If you'll please identify yourself and be sure and sign in before you leave.

LR 227CA

SENATOR MAXWELL: Thank you, Mr. Chairman, members of the Executive Board. There are no cosponsors on this legislation either, but maybe we can change that. We'll see. I'm Chip Maxwell representing District 9, here to introduce LR 227CA. I'm going to quickly run through the statement of intent. If you're like me and you have so many of these washing over you, it is helpful to have somebody go over it. I just want to make sure everybody understands what I'm proposing here. What I propose is this. For a biennium, a senator would receive a salary of 1.5 times the average annual income in Nebraska based on the prior tax year. You'd also be able to obtain the same benefits package that a legislative staffer has available. What that would mean is this. If this were to pass and be approved on the ballot this year, let's say the Legislature is in the 2005 session, you look back to 2004, what was average annual

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 25

LR 227

income in Nebraska that year? I like using round numbers. I'm just going to say let's say it was \$40,000 in 2004. Okay, that means that for the '05-07 biennium salary for a state senator would be \$60,000 a year, 1.5 times what the state average annual salary was in 2004. What that means is when the biennium begins in July of '05, you start getting the monthly check based on the new salary, one-twelfth of the \$60,000, through that biennium. The current salary would remain in effect until this new plan took effect. This would put state senators in the lower rung of pay for state constitutional officers. That's part of what I was aiming at. I thought how could we come up with a mechanism that does not require getting back into it periodically, set it in motion so it would sort of take care of itself, and what's something that would be enough to attract people to run for office, but not be exorbitant? I thought it was reasonable to plug this in. So as I say, I don't know, maybe it would be \$65,000, but it would plug us into the lower rung of constitutional salaries, at least as they exist now. Perhaps we'll raise them soon, I don't know, but. The other thing I thought it was a good feature for elected officeholders is the pay would go up or down depending on how Nebraskans are doing on average. So in a sense there is some aspect of accountability for the state senator as opposed to other offices in state government. One of the reasons I was trying to gear us at at least the lower rung of state constitutional offices is to put the state senator in a stronger position, on stronger footing in the public policy arena. I'm in my fourth year here now, and it occurs to me that, I'm not going to speak for everyone, I'll just speak for myself now, I don't feel like I'm the best prepared, best informed person in the arena. Maybe that's my fault, but I think for a lot of other senators, I think it's very difficult. You come in here and 800 bills wash over you one year, maybe another 300 or 400 the next year. The executive branch is working these issues year round. The lobby is working these issues the year round. And I am not a basher of the lobby. I rely on lobbyists for help and information so I'm not here to bash anybody else in the system. But I'm just saying when I look at the policymaking arena, the people who are supposed to be the main drivers of policy are often the ones who are the least prepared, the least informed. And so this is what I mean when I say I'd like to see the state senator working the issues year round like everybody else in the

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 26

LR 227

policymaking arena. That doesn't mean that we don't need the help of lobbyists or other people. But I see an imbalance there. That's one thing I'm trying to address. Another that I mention in the statement of intent is that I'm not sure it's a good thing in a democracy when actually a very narrow segment of society really is in a position to serve in the Legislature. I don't know that that's a good thing. I look at term limits taking effect on the horizon, which I view as negative. I could feel myself losing votes as a candidate in 2000 on front porches and in neighborhood association meetings saying that I oppose term limits. But I look at that, and that's also a concern. It's not foremost here, but it is a concern. So I just want to make it clear my main motivation is to make sure a broader number of people can serve and that we strengthen the position of the state senator in the overall scheme of things here in the Capitol. A couple of observations about the politics of it all. Perhaps the committee, perhaps the Exec Board would decide that this would need to take effect later in 2007 or 2009 so that most of the folks who would vote to put it on the ballot would not benefit from it. I wouldn't quarrel with that if you thought that that was the best way to proceed. Let me be 100 percent candid with you. I wasn't sure if I was going to introduce this until I had reached the conclusion that I will not be able to run for reelection because it was a consideration. I thought, well, that's interesting. It's been no secret that I'm one of the folks that's been having a tough time trying to make the numbers work to serve in the Legislature. So how would that be if I'm running for reelection? I can see the cartoon with me just with my wallet out saying, put it right here, you know. So if that's a concern that it should be put off further so that folks talking about it and voting for it now don't benefit from it, that's fine. That's a legitimate concern. I was somewhat puzzled but actually I'm glad that this is before the Executive Board. I assumed I'd be visiting the Government Affairs about this. But actually from my selfish consideration, this is better because something like this is going nowhere as long as it's just the crusade of one junior back bencher senator. That's not false modesty, that is just reality. Something like this is not going to go anywhere unless this group decided to embrace it, adopt it, get behind it, and push it. And it would probably still require a support of Governor. It would probably still require a supportive lobby getting the word out. And there

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 27

LR 227

might still be a tough sell. I don't know. But actually this is the place to discuss this. This would be probably the only launching pad from which something like this would have a chance of success. One other political consideration, the...because I've visited with a few of you individually about this, \$60,000, \$65,000, this is just beyond pale of anything that's been proposed so far. I think we got to quit apologizing for this office, for this position, and for its role in the scheme of things. I think we may have a better shot of making a bolder stroke like this. And instead of sort of nibbling at the fringes, go right for it and try to convince people it's a different world now. It's a different world. It's a different education system. It's a different healthcare system. State senators are dealing with nearly \$3 billion a year of taxpayer money. It should be treated as a full-time position. They ought to be working this full time. I'm...I actually find that once people's heart rates lower and their blood pressure lowers and they calm down and if they'll visit with you for five minutes about it, they'll actually start nodding along, whether it's a neighborhood group or a political action group. I've even been foolish enough to toss this out on radio, you know, talking to people about it. But actually it's...I wouldn't introduce this if I thought it was absolutely impossible to make the sale. But it would take a concerted effort by the leadership of this body and probably the lobby so I don't...but I actually think we have a better shot if we take a bolder approach on it and try to recast the way the public perceives this very office. The last thing I'll mention is this. Maybe I'm misinformed, but apparently fiscal notes are not prepared for proposed amendments. Is that correct? So I'll ballpark and say it would be about \$3 million or \$3.5 million, I think, if you were going to pay people the kind of salary I have in mind and also make available to them a benefits package. That's about one-tenth of one percent of our annual budget. To me that's a very reasonable investment to make in the body. I'll just close to remind you of the two considerations. The focus here is to allow more people to serve and to put state senators in a stronger position in the policymaking arena. Thank you. I'd be happy to answer any questions.

SENATOR ENGEL: Are there any questions of...Senator Jones I think was first.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 28

LR 227

SENATOR JONES: Yeah, Senator, you're getting up to the salary now like in California, you know, they're bigger salaries over there but probably not quite as high there. But they insist out there that they cannot have another job when they get elected for that position, that's it, no other job. Now I see you're not considering that in this here constitutional amendment.

SENATOR MAXWELL: It's not in here. I wouldn't rule it out. My thought was I could imagine in a typical campaign candidates elbowing each other out of the way to be the first one to say I'm going to treat this as a full-time job. I'm going to be your full-time state senator. I sort of thought it would take care of itself. If the board thought that that kind of a provision was necessary, I wouldn't quarrel with that.

SENATOR JONES: That's the way it is in California now.

SENATOR MAXWELL: Is it?

SENATOR JONES: Yeah.

SENATOR MAXWELL: Okay.

SENATOR JONES: Thank you.

SENATOR ENGEL: Senator Bromm.

SENATOR BROMM: Chip, the figure you use for average annual income, is that...have you checked that out? Is that \$40,000?

SENATOR MAXWELL: That is a rounded off number. I think it's 40...right now if you took a snapshot, it's \$42,000-something I believe is the actual average. I'd be happy to get it for you if it made a difference. For my purposes...

SENATOR BROMM: That's a readily acceptable definition that was available, I mean, that's the same number to everybody, the average annual income (inaudible).

SENATOR MAXWELL: I think I locked into the Tax Commissioner

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 29

LR 227

would be the go-to person, what's the number we're going to use so that we're not arguing about what the right number is. Is that your question, Mr. Speaker?

SENATOR BROMM: Yeah, that's okay. You know, I agree with an awful lot of what you said. I do think that people got the impression that that was the number, \$60,000. I don't think that that would fly.

SENATOR MAXWELL: I'm not sure I follow you.

SENATOR BROMM: Well...

SENATOR MAXWELL: Oh, you might think that the average is supposed to be...

SENATOR BROMM: ...if 1.5 times is \$60,000...

SENATOR MAXWELL: Yeah.

SENATOR BROMM: ...I think they would think...I think that would be a tough sell. If it were \$30,000 somewhat like Iowa to the benefit of something, you know, it might have a little better shot. That's just my opinion. The other question I would have, have any groups approached you that feel that something like this is a good idea? I mean are there (inaudible) voters (inaudible) anybody approach you and said, you know, we think...

SENATOR MAXWELL: In a formal way, no. And I don't know if people are just being polite to me whenever I bring it up, oh, that makes a lot of sense. You guys need to be paid more. But has anybody signed on the dotted line for, you know, \$60,000 or \$65,000? At this point, no.

SENATOR BROMM: Thanks.

SENATOR ENGEL: Chip, I think one thing that's 125 percent of the average salary, but that's full-time salaries you're talking about (inaudible). I mean sometimes this feels like full-time, but really isn't as far as our positions currently are. We're not...it's not considered...it's considered citizen Legislature on a part-time basis even though it takes a lot of our time.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Executive Board
February 9, 2004
Page 30

LR 227

SENATOR MAXWELL: True statement. I'm talking about, as I said, recasting the way this office is viewed. Part of my frustration is I'm on the Education Committee, I'm on the Health Committee. I feel like I ought to visit every school and every health facility in my district and I ought to be visiting ones in other parts of the state. And then I ought to...Senator Chambers made the point on another piece of legislation about we are state senators. We're elected by district, but we're state senators. And I don't think most of us are in a position to do this unless we treat it as a full-time job. So you're right. I'm talking about changing the way we view the office.

SENATOR ENGEL: Senator Janssen.

SENATOR JANSSEN: Chip, would you look at the per diem and mileage and so on? Say if you had a salary of around \$60,000, you know, that could be eliminated also.

SENATOR MAXWELL: Sure. That's another one I wouldn't quarrel with that if that was necessary to move the thing forward, sure.

SENATOR JANSSEN: Because the cost the state incurs for us is probably more than the \$12,000 a year...

SENATOR MAXWELL: Right, um-hum.

SENATOR JANSSEN: ...when you start figuring mileage and per diem.

SENATOR MAXWELL: True.

SENATOR ENGEL: Any other questions? If not, thank you, Chip. And are there any other proponents? Are there any opponents? Anyone testifying in a neutral capacity? If not, would you like to close? Closing has been waived. So that concludes the hearing on LR 227CA and thank you all for attending today.